

No. WR-92,099-01

IN THE
COURT OF CRIMINAL APPEALS
FOR THE
STATE OF TEXAS

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COURT OF CRIMINAL APPEALS
6/6/2023
DEANA WILLIAMSON, CLERK

CAUSE NO. 1338054-A
In the 338th District Court
Of Harris County, Texas

EX PARTE
JUAN CARLOS BARRERA-MAGANA

TRIAL COURT'S REQUEST FOR EXTENSION OF TIME

The 338th District Court of Harris County ("Court"). Texas, Honorable Ramona Franklin, moves the Texas Court of Criminal Appeals ("CCA") to grant an extension of time in the above-referenced application for writ of habeas corpus, pursuant to TEXAS RULES OF APPELLATE PROCEDURE 73.5, and for good cause would show as follows:

I.

Applicant filed the instant writ, *pro se*, on November 4, 2019. Applicant argues that his appellate attorney, Vivian King, provided

ineffective assistance of counsel by failing to file a petition for discretionary review as she indicated she would do, and by failing to advise Applicant that he had a right to file a *pro se* petition for discretionary review.

On January 20, 2022, this Court signed an order designating the issues to be resolved in the instant proceeding and requiring Ms. King to file an affidavit within 30 days of the order.

On September 14, 2022, habeas counsel was appointed to Applicant's case. Despite this Court's order requiring Ms. King to file an affidavit, the CCA's two remand orders requiring the Applicant's ineffective assistance of appellate counsel claims be factually developed, and repeated attempts by State and habeas counsel to contact Ms. King, Ms. King has not filed said affidavit as of this date.

The current deadline for this Court to file a supplemental record that include findings of fact and conclusions of law is June 5, 2023. However, without Ms. King's affidavit, the designated factual issues cannot be resolved.

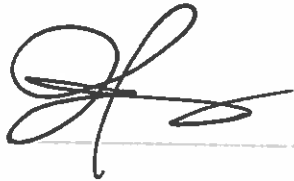
On June 5, 2023, this Court granted Applicant's Motion for a Show Cause Hearing and to Compel Ms. King to comply, within 30 days, with this Court's January 20, 2022, order for an affidavit.

For the foregoing reasons, the parties agree that additional time is needed. Therefore, this Court requests an additional 60 days to resolve issues and submit a supplemental record to the CCA. This Court's request is not intended to unduly delay proceedings in the instant writ.

II.

WHEREFORE, PREMISES CONSIDERED. this Court respectfully requests that the Court of Criminal Appeals grant a 60 day extension resolve the designated issues in the instant cause.

SIGNED this 6.5.2023.

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'J' shape followed by a horizontal line and a small flourish.